STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[redacted]

New Reg. No.: 201315629
Old Reg. No.: 201149281
Issue No.: 2009
Case No.: [redacted]
Hearing Date: October 19, 2012
County DHS: Jackson County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant MCL 40039; MCL 400.37; and MAC R 400.919 upon an Order for Reconsideration. Claimant was represented by [redacted].

ISSUE

The issue set forth in the original Hearing Decision mailed on June 4, 2012, is hereby incorporated by reference and in addition the following issues.

Did the Administrative Law Judge err by:

1. not taking into consideration the total and complete medical record regarding the Claimant's ablity to perform any kind of work?

2. denying MA-P based on Claimant's ability to perform sedentary work?

3. not finding Claimant disabled under Medical-Vocational Guidelines 202.04, and

4. not finding Claimant unable to perform any kind of **full-time work**.

The Administrative Law Judge says no to the above.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact.The findings of fact set forth in the

original Hearing Decision mailed on June 4, 2012, are hereby incorporated by reference, and in addition Findings of Fact 7 and 8.

7. On October 12, 2010, Claimant was admitted for acute anterior MI. He was taken emergently to the cardiac cauterization lab by [redacted] with subsequent PCI by [redacted] revealed no complications. He has had a largely uneventful stay, although he did have a noted dark stool with stable hemoglobin and no other signs of active bleeding. We have asked him to follow up with you in the next week for further evaluation and assuming his primary care. [redacted] has had no further symptoms suggesting angina, TIA or stroke. This morning after exam by [redacted] and myself, he felt stable and ready for discharge with plans for cardiac rehab. Substance abuse and smoking cessation counseling have been offered. At this time, he declines referral to the [redacted] for further assistance. He understands the importance of his medical therapy and has been given assistance through CMAP. We will see him in our office November 19 at 2:30. Please do not hesitate to call if there are other questions or concerns. (Medical Packet, pg. 18)

8. On October 19, 2010, Claimant had consultation regarding his coronary artery disease with his anterior MI and angioplasty; that cardiovascularly he has a normal S1, S2; and that he has no murmurs, rubs, or gallops. (Medical Packet, pg. 16 & 18)

CONCLUSIONS OF LAW

The Conclusions of Law as set forth in the original Hearing Decision on June 4, 2012, are hereby incorporated by reference, except the step five analysis on pages five and six should be deleted and changed to read:

The Claimant had the burden of proof to establish severe physical impairments in combination for the one year continuous duration at Step 2. And if not established, then the step analysis is required to stop.

The objective medical evidence of record does not establish the claimant's significant incapacity to perform basic work activities due to severe heart impairment in combination, with his other impairments for the one year continued duration. Nor claimant's inability to perform his past work for the required one year continuous duration, as defined above. To the contrary; the medical evidence of record establish a non-severe medical heart impairment. (Findings of Fact 7 & 8).

Issue 2 was addressed under Step 2 of the original incorporated Decision and Order. The claimant is not specific as to medical evidence, if any, that was not considered.

It would only be a guess or speculation as to what medical evidence the Claimant is referring to that was not considered by the Administrative Law Judge.

It is the well settled law that fact-finders are not allowed or permitted to speculate as to material facts in disputes.

Issue 3 was not required to be address under Step 5 of the original Decision and Order reference RFC for sedentary work.

> Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, July 13, 2011, per PA 1939, Section 9, Act 280.

Therefore, Administrative Law Judges are required to follow the Department of Human Services policy requirement. In MA-P disability cases a 5 Step federal determination process is shown in the Department of Human Services policy (BEM 260) as outlined in the original Decision and Order.

As addressed in the original Decision and Order, when determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required.

In this case, Step 1 disability was not denied. So the Administrative Law Judge was required to continue the sequential evaluation to Step 2.

Step 2 disability was denied. Therefore, the Step evaluation beyond Step 2 was not required. The purpose of going beyond Step 2 in the step evaluation was to show that, even if Step 2 had been established, Claimant would not have established the subsequent steps.

Issue 4 was not required to be address in the original Decision and Order as already discussed above.

Issue 5 regarding inability to perform **full-time employment** is not the standard for determining substantial gainful activities under the MA-P disability program.

Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a **part-time** basis or if you do less, get paid less, or have less responsibility than when you worked before. 20 CFR 416.972(a).

Therefore, full-time employment is not the test as to whether or not a person is engaged in substantial work activities.

In conclusion, claimant did not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the department's MA-P decision is upheld.

DECISION AND ORDER

The administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Decision and Order as set forth in the original Hearing Decision mailed on June 4, 2012, is hereby incorporated by reference.

/s/
William A Sundquist
Supervising Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 4, 2013

Date Mailed: January 8, 2013

NOTICE: The law provides that within 30 days of receipt of this decision, the claimant may appeal this decision to the circuit court for the county in which he/she lives.

WAS/hj

cc: [redacted]